



10/791,521

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/611,591 | 07/07/2000 | Richard S. Greenberg | 130.1.005 CIP | 6513 |

7590

08/18/2003

Watov & Kipnes PC
P O Box 247
Princeton Junction, NJ 08550

EXAMINER

KUHAR, ANTHONY J

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1754

DATE MAILED: 08/18/2003

(COPY)

22

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/611,591

Applicant(s)

GREENBERG, RICHARD S.

Examiner

Anthony J Kuhar

Art Unit

1754

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

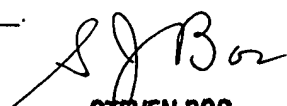
Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☒ Other: The final rejection of record is hereby maintained.


STEVEN BOS
PRIMARY EXAMINER
GROUP 1100

Continuation of 5. does NOT place the application in condition for allowance because: applicant's arguments are not persuasive. The examiner agrees that the invention of Elgal '475 strips volatile contaminants from the soil or groundwater using an air stripper and then oxidizes those volatile chemicals using a vapor phase reactor. Applicant then argues that an ex-situ sample of soil is placed in vapor reactor 14 and treated with the ozone/hydrogen peroxide reaction mixture. Examiner disagrees with this interpretation of example 2. There is no statement where the soil sample is placed into the vapor reactor 14. Rather, the "process mixture used in the vapor reactor 14 was also applied to soil contaminated with petrochemicals." Thus, it appears the process gas was applied directly to the underground soil because nowhere in this example does it disclose the soil or processing gas are physically present in the vapor phase reactor. Furthermore, the language "By injecting ozone and hydrogen peroxide ... into contaminated soil" further suggests the in-situ treatment of soil. The reference would not use the word "injecting" if the process gas was not already present with the soil inside the vapor phase reactor. Rather, the language -by mixing- or -by flowing the ozone and hydrogen peroxide to the vapor phase reactor- would better suggest the presence of the processing gas and soil inside the vapor phase reactor. The point of example 2 is to show the oxidizing power of the ozone/hydrogen peroxide mixture by showing its use in a variety of treatment scenarios, not just in the vapor phase. Furthermore, a soil sample would not be placed in a vapor reactor since soil is not a vapor.